

**SECOND DAY**

**(Continued)**

**(Monday, February 20, 1950)**

**AFTER RECESS**

The Senate met at 10:00 o'clock a.m. and was called to order by the President pro tempore.

**Senate Resolution 36**

Senator Colson offered the following resolution:

Whereas, On the 18th day of February, 1950, the Giver of All Good Gifts presented to the Honorable Howard A. Carney and his wife, the lovely and gracious Aline Carney, a daughter whose name is Carol Elizabeth Carney; and

Whereas, This young lady reflects the charm and beauty of her mother and inherently possesses the fine qualities of her father, who is a distinguished member of this Senate; and

Whereas, This event is recognized by the members of this Legislative Body as an event deserving of special recognition; now, therefore, be it

Resolved, That as evidence of our admiration and love, the Senate of Texas herewith designates this adorable young lady, Miss Carol Elizabeth Carney, as the Sweetheart of the First Called Session of the Fifty-first Legislature; and be it further

Resolved, That her picture be placed on the Senate panel if and when such is made and that a copy of this resolution be sent to her with all the good wishes for her success and happiness during her tenure of this honored position.

The resolution was read and was adopted.

**Senate Resolution 37**

Senator Phillips offered the following resolution:

Whereas, We are honored today to have in the gallery of the Senate the Senior Class of Anahuac High School, Anahuac, Texas, accompanied by their sponsors; and

Whereas, These students and guests are on an educational tour of the Capitol Building and the Capital City; and now, therefore, be it

Resolved, That these individuals be officially welcomed and recognized by the Senate; and that each member

of this class be furnished with a copy of this resolution.

The resolution was read and was adopted.

**Leave of Absence Granted**

Senator Bell was granted leave of absence for today on account of important business on motion of Senator Strauss.

**Message from the House**

Hall of the House of Representatives,  
Austin, Texas,  
February 20, 1950.

Hon. Grady Hazlewood, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H. C. R. No. 19, Commending Judge Harold R. Medina for his Americanism.

H. C. R. No. 9, Granting C. E. Stubblefield permission to sue the State of Texas.

H. C. R. No. 16, Commending Texas Exes for their fine spirit in continuing the tradition of March 2nd by meeting together on that day each year.

H. C. R. No. 15, Authorizing Charles C. Telford to sue the State of Texas.

H. C. R. No. 11, Granting Paul Pennell of Grayson County, Texas, permission to sue the State of Texas and the Texas Highway Department.

Respectfully submitted,  
CLARENCE JONES,  
Chief Clerk, House of Representatives.

**Reports of Standing Committee**

Senator Aikin, by unanimous consent, submitted the following reports:

Austin, Texas  
February 17, 1950

Honorable Grady Hazlewood, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. B. No. 3, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, as amended, and be printed.

AIKIN  
Chairman.

Austin, Texas  
February 17, 1950

Honorable Grady Hazlewood, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred H. B. No. 2, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

AIKIN  
Chairman.

#### Bill Ordered Not Printed

On motion of Senator Aikin, it was ordered that H. B. No. 3 be not printed.

#### House Bill 3 on Second Reading

Senator Aikin moved to suspend the constitutional rule requiring bills to be read on three several days and that House Bill No. 3 be placed on its second reading and passage to third reading.

The motion prevailed by the following vote:

Yeas—30

Aikin	Lane
Ashley	Lock
Bracewell	Martin
Bullock	McDonald
Carney	Moffett
Colson	Moore
Corbin	Morris
Cousins	Nokes
Hardeman	Phillips
Harris	Proffer
Hazlewood	Shofner
Hudson	Strauss
Jones	Tynan
Kelley of Hidalgo	Vick
Kelly of Tarrant	Weinert

Absent—Excused

Bell

The President pro tempore then laid before the Senate on its second reading and passage to third reading:

H. B. No. 3, A bill to be entitled "An Act levying and providing for the collection of certain taxes in addition to those now levied by law; requiring reports by taxpayers; providing savings and severability clauses; providing effective dates and expiration dates for this Act and portions thereof; fixing liens for taxes;

preserving such lien and debt for taxes at the expiration of any part hereof; requiring withholding of certain taxes by purchasers; providing for the combining of reports; authorizing the collecting officer, agency or department to make certain rules and regulations; providing governing rules should there be conflicts in fines, penalties, forfeitures and penal offenses; creating the State Hospital Fund and defining its use; allocating taxes collected hereunder (with certain exceptions) to such Fund; and declaring an emergency."

The bill was read second time.

Senator Aikin offered the following committee amendment to the bill:

(1)

Amend House Bill 3, Article VII, Section One, page 21, by adding at the end of Sub-section 6, a new Sub-section to be numbered 6½, and reading as follows:

"Sub-section 6½. The above described method of payment of the liquor tax herein levied shall not be in force and effect if, as and when and during the period of time for which the Texas Liquor Control Board, by rule and regulation, has prescribed another or different method of the payment of such tax, either with or without the additional stamps provided above. The Texas Liquor Control Board is fully authorized and empowered to adopt and promulgate, from time to time, rules and regulations relative to the collection of such tax levied in this Section; and such rule or regulation may be adopted and become effective with or without the statutory notice provided for the adoption of other rules and regulations of the Board. Such rules and regulations may include provisions for the present stamps, or stamps of the present denominations, to evidence the payment of both the tax herein levied and the tax heretofore levied in the Texas Liquor Control Act as amended, both as to collection of such tax and any refunds authorized under this Section 21½. It shall be the duty of the State Treasurer in connection with the sale of any stamps used to evidence the payment of such tax, to follow and comply with any rule or regulation of the Board pursuant to the power granted herein."

The committee amendment was adopted.

Senator Aikin offered the following committee amendment to the bill:

(2)

Amend H. B. No. 3, page 14, line 27 by striking out the figure "15" and inserting the following:  
"one-tenth of one."

The committee amendment was adopted.

Senator Aikin offered the following committee amendment to the bill:

(3)

Amend House Bill No. 3 by striking out Article VIII thereof and inserting in lieu thereof the following:

"Chapter 3 to Title 122 of the Revised Civil Statutes of Texas of 1925, as amended, is amended hereby by the addition of a new article to be denominated "Article 7084½", and reading as follows:

"Article 7084½. In addition to all other taxes, there is hereby levied an additional franchise tax of ten (10) per cent of all franchise taxes levied by and due and payable under Article 7084, Revised Civil Statutes, 1925, as heretofore amended, upon the privilege of doing business in Texas in corporate form from May 1, 1950, to April 30, 1951, and an additional franchise tax of one third (⅓) of ten (10%) per cent of all franchise taxes levied by and due and payable under said Article 7084 for the privilege of doing business in Texas in corporate form from May 1, 1951, to August 31, 1951. The tax levied herein for the period from May 1, 1950, to April 30, 1951, shall be paid on or before September 1, 1950. The tax levied herein for the period from May 1, 1951, to August 31, 1951, shall be paid at the same time, in the same manner, and subject to the same terms, penalties and conditions as the franchise tax that will become due under the provisions of the aforesaid Article 7084 for the full year period of May 1, 1951, to April 30, 1952.

"In order to effect collection of the tax herein imposed for the period beginning May 1, 1950, and ending April 30, 1951, the Secretary of State shall, as soon after the passage of this Act as is feasible, mail to all corporations required to pay said additional tax such additional or supplemental report forms as he may deem necessary for the collection of

said additional tax; and he shall also mail notice to the effect that for failure to file the required report and for failure to pay the additional tax for the period beginning May 1, 1950, and ending April 30, 1951, the right of such corporations to do business in Texas will be forfeited on September 1, 1950, and will subject any such defaulting corporations to the same penalties and conditions provided by Articles 7089, 7091 and 7092, Revised Civil Statutes of Texas of 1925, as amended, the dates of accrual of such penalties and conditions, however, to be after September 1, 1950, and on and after any consummation of forfeiture of the right to do business.

"The taxes levied by this Article are for the aforesaid periods of time, and no corporation, domestic or foreign, shall be required to pay the additional taxes levied by this Article for the privilege of doing business in Texas before May 1, 1950, or after August 31, 1951. No foreign corporation shall be required to pay a greater tax hereunder than it would pay if it were a domestic corporation.

"The Secretary of State shall have the authority to promulgate such rules and regulations as he may deem necessary for the enforcement of this Article and the collection of the tax levied hereby."

The committee amendment was adopted.

Senator Aikin offered the following committee amendment to the bill:

(4)

Amend mimeographed copy of H. B. No. 3, Art. IX, Page 24, beginning on line 11, by striking out the entire phrase "stamps for wine shall be issued only in multiples of the rate assessed for each quart"; and inserting in lieu thereof the following: "stamps for wine shall be issued in multiples of the rate assessed for each pint and for each one-tenth (1/10) of a gallon."

The committee amendment was adopted.

Senator Aikin offered the following amendment to the bill:

Amend House Bill 3, Article V, Section One, Page 12, Line 23, by striking out the figure "(1.51125)", and inserting in lieu thereof the following: "(1.5125)".

The amendment was adopted.

Senator Aikin offered the following amendment to the bill:

Amend House Bill 3, Article VI, Section One, Page 19, Line 24 and also on Page 21, Line 26, by striking out the words and figures: "Section 1½" and inserting in lieu thereof the words and figures: "Section 21½".

The amendment was adopted.

Senator Aikin offered the following amendment to the bill:

Amend H. B. 3, Article XX, Section 9, Line 25, by striking out the word "of" and substituting the word "or".

The amendment was adopted.

Senator Aikin offered the following amendment to the bill:

Amend H. B. 3, Article XVIII, Section 3, Page 44, Line 2, by striking out the words "upon each life insurance company" and inserting in lieu thereof the words "for the years 1950 and 1951, upon every group of individuals, society, association, or corporation."

The amendment was adopted.

Senator Aikin offered the following amendment to the bill:

Amend H. B. 3, Article IX, Section 1, Page 24, Line 24, by striking out the quotation mark at the end of such line and adding the following:

"But nothing herein shall affect the powers and rights conferred upon the Texas Liquor Control Board in Article VII of H. B. 3 of the 1st Called Session of the 51st Legislature."

The amendment was adopted.

Senator Aikin offered the following amendment to the bill:

Amend H. B. 3, Article XX, Section 7, Page 49, Line 13, by inserting immediately after the words "repeal or reduce" the words "the rate of".

The amendment was adopted.

Senator Aikin offered the following amendment to the bill:

Amend H. B. 3, Article XX, Section 7, Page 49, Line 19, by striking out the words "reduces the amount" and inserting in lieu thereof the words "repeals or reduces the rate of levy."

The amendment was adopted.

Senator Aikin offered the following amendment to the bill:

Amend H. B. 3, Article XX, Section 3, Page 47 by inserting in Line 24 immediately following the words "State of Texas" the following words: "prior to the expiration of this Act."

The amendment was adopted.

Senator Aikin offered the following amendment to the bill:

Amend H. B. 3, Article XVII, Section 2, Page 43, Line 7, by striking out the words "any group of individuals, corporation, organization or concern" and inserting in lieu thereof the words "every group of individuals, society, association, or corporation."

The amendment was adopted.

Senator Aikin offered the following amendment to the bill:

Amend H. B. 3, Article XX, Section 5, Page 48, Line 26, by striking out the period at the end of the sentence on Line 26, and adding the following: "or invalid."

The amendment was adopted.

Senator Aikin offered the following amendment to the bill:

Amend H. B. 3, Page 46, Article XIX, Line 20, by adding at the end of the word "Schools" and before the word "of" the following: "and those institutions under the direction of the State Youth Development Council."

MORRIS  
AIKIN

The amendment was adopted.

Senator Kelley of Hidalgo offered the following amendment to the bill:

Amend H. B. 3, Article II, Section 1, Page 4, by striking out the word "and," in Line 25 after the words "and lawfully vented or flared"; and by changing the period in Line 26 to a semi-colon, and adding the following: "and, (d) gas used in the production by synthesis of heavier hydrocarbons and chemicals."

Senator Aikin moved to table the amendment.

Yeas and nays were demanded.

The motion to table prevailed by the following vote:

## Yeas—25

Aikin	Lane
Ashley	Lock
Bracewell	Martin
Bullock	McDonald
Carney	Moffett
Colson	Moore
Corbin	Morris
Cousins	Nokes
Hardeman	Proffer
Harris	Strauss
Hudson	Tynan
Jones	Weinert
Kelly of Tarrant	

## Nays—5

Hazlewood	Shofner
Kelley of Hidalgo	Vick
Phillips	

## Absent—Excused

Bell

Senator Phillips offered the following amendment to the bill:

Amend H. B. 3, by eliminating the period and adding the words "on taxable premiums collected only on new policies issued on or after the 1st day of January, 1949," at the end of both Section 2 and Section 3, Page 43 of Article XVII.

Senator Aikin moved to table the amendment.

The motion to table prevailed by the following vote:

## Yeas—21

Aikin	Lock
Ashley	Martin
Bracewell	McDonald
Bullock	Moffett
Carney	Moore
Colson	Nokes
Corbin	Proffer
Hardeman	Strauss
Hazlewood	Tynan
Jones	Weinert
Lane	

## Nays—8

Cousins	Morris
Harris	Phillips
Kelley of Hidalgo	Shofner
Kelly of Tarrant	Vick

## Absent

Hudson

## Absent—Excused

Bell

Senator Moffett offered the following amendment to the bill:

Amend H. B. 3, by inserting in Article XIX, Page 46, Line 20, following the word "Texas" the following: "and for the activation of a surplus commodities distributing agency, authorized in Article 695 C, Section 7, Vernon's Civil Statutes."

The amendment was adopted by the following vote:

## Yeas—30

Aikin	Lane
Ashley	Lock
Bracewell	Martin
Bullock	McDonald
Carney	Moffett
Colson	Moore
Corbin	Morris
Cousins	Nokes
Hardeman	Phillips
Harris	Proffer
Hazlewood	Shofner
Hudson	Strauss
Jones	Tynan
Kelley of Hidalgo	Vick
Kelly of Tarrant	Weinert

## Absent—Excused

Bell

Senator Martin offered the following amendment to the bill:

Amend mimeographed copy of H. B. 3, by striking out all of Sub-section 6 on Page 21, and changing the figure "7" on Line 26, Page 21 to the figure "6."

The amendment was adopted.

Senator Morris offered the following amendment to the bill:

Amend H. B. No. 3, Section 1½, by adding on Page 26, at the end of Line 7, a clause to read as follows: "but does not include the amount of tax provided by this section, which the seller charges and receives above the regular price of an article or commodity."

Question—Shall the amendment be adopted.

## Resolution Signed

The President pro tempore signed, in the presence of the Senate, after giving due notice thereof, the following resolution:

S. C. No. 10, Granting each House permission to adjourn from Wednesday, February 15, 1950, until Monday, February 20, 1950.

#### Senate Resolution 38

Senator Corbin offered the following resolution:

Whereas, Honorable Marshall Formby is in the Capitol; and

Whereas, This distinguished citizen is a former member of the Senate of the State of Texas; and

Whereas, The Senate will be glad to welcome him; now, therefore, be it

Resolved, That he be extended the privileges of the floor for today.

The resolution was read and was adopted.

#### Recess

On motion of Senator Aikin, the Senate at 11:55 o'clock a.m., took recess to 2:00 o'clock p.m. today.

#### AFTERNOON SESSION

The Senate met at 2:00 o'clock p.m. and was called to order by the President pro tempore.

#### Message from the House

Hall of the House of Representatives,  
Austin, Texas,  
February 20, 1950.

Hon. Grady Hazlewood, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. C. R. No. 11, In memory of Honorable Irby Dunklin of Fort Worth, Texas.

Respectfully submitted,  
CLARENCE JONES,  
Chief Clerk, House of Representatives.

#### House Bill 3 on Passage to Third Reading

The Senate resumed consideration of pending business, same being H. B. No. 3, on its passage to third reading with an amendment by Senator Morris pending.

Question—Shall the amendment be adopted?

Question recurring on the amendment, it was adopted.

Senator Nokes offered the following amendment to the bill:

Amend H. B. No. 3, by adding a new Article after Article XII to be Article XII-A which shall read as follows:

#### "ARTICLE XII-A

"Chapter 241, Acts Regular Session, 44th Legislature, as heretofore amended, is amended hereby by the addition thereto of a new section immediately following Section 2 thereof to be denominated 'Section 2A' and reading as follows:

Section 2A. In addition to all other taxes, a tax of Twenty-Two and One-Half Cents (\$0.22½) per thousand on cigarettes weighing not more than three (3) pounds per thousand and Fifty-Four Cents (\$.54) per thousand on those weighting more than (3) pounds per thousand is hereby imposed on all cigarettes used or otherwise disposed of in this State for any purpose whatsoever. The said tax shall be paid only once by the person making the 'first sale' in this State and shall become due and payable as soon as such cigarettes are subject to a first sale in Texas, it being intended to impose the tax as soon as such cigarettes are received by any person in Texas for the purpose of making a 'first sale' of same. No person, however, shall be required to pay a tax on cigarettes brought into this State on or about his person in quantities of forty (40) cigarettes or less when such cigarettes have had the individual packages or the seals thereof broken and when such cigarettes are actually used by said person and not sold or offered for sale. Payment of such tax shall be evidenced by stamps purchased from the Treasurer and securely affixed to such individual package of cigarettes covering the tax thereon as imposed herein; provided that such stamps may be purchased and affixed to such individual package of cigarettes by a manufacturer of cigarettes outside this State, in which case no further payment of tax shall be required.

"The form, type and design of stamps shall be prescribed by the State Comptroller of Public Accounts and may be in one or more denominations but in such denomination or combination of denominations as will permit the affixing of stamps evidencing the payment of all taxes levied by law on the sale, possession or use of

cigarettes. The State Comptroller of Public Accounts is authorized and directed to make such rules and regulations as he may deem necessary for the enforcement of this Section in the collection of the tax herein levied. The stamps referred to above shall be purchased from the State Treasurer. The above tax levy is on sales or use prior to August 31, 1951.

#### Section Two

Section One of this Article shall become effective on the first day of the first month after the effective date of this Act, but in no event prior to April 1, 1950.

Senator Aikin moved to table the amendment.

The motion to table prevailed by the following vote:

#### Yeas—21

Aikin	Lock
Ashley	Moffett
Bracewell	Moore
Carney	Phillips
Colson	Proffer
Cousins	Shofner
Hardeman	Strauss
Jones	Tynan
Kelley of Hidalgo	Vick
Kelly of Tarrant	Weinert
Lane	

#### Nays—9

Bullock	Martin
Corbin	McDonald
Harris	Morris
Hazlewood	Nokes
Hudson	

#### Absent—Excused

Bell

Senator Nokes offered the following amendment to the bill:

Amend H. B. No. 3, Article XVI, Section 1, Par. 2, to read as follows:

"Section 23A. In addition to all other taxes, there is hereby levied and assessed a tax at the rate of Three Dollars and Thirty-one Cents (\$3.31) per barrel on the first sale of all beer manufactured in Texas and on the importation of all beer imported into this State."

Senator Aikin moved to table the amendment.

The motion to table prevailed by the following vote:

#### Yeas—20

Aikin	Kelley of Hidalgo
Ashley	Kelly of Tarrant
Bracewell	Lane
Carney	Lock
Colson	Moffett
Cousins	Shofner
Hardeman	Strauss
Harris	Tynan
Hazlewood	Vick
Jones	Weinert

#### Nays—10

Bullock	Moore
Corbin	Morris
Hudson	Nokes
Martin	Phillips
McDonald	Proffer

#### Absent—Excused

Bell

Senator Morris offered the following amendment to the bill:

Amend H. B. No. 3, Article 10, Page 25, Line 12, by adding at the end of the word "radios" and before the word "or" the words "television sets."

The amendment was adopted.

Senator Hudson offered the following amendment to the bill:

Amend H. B. No. 3, by substituting for Article XVIII thereof, the following:

#### ARTICLE XVIII

##### Section One

Chapter 400, Acts of the First Called Session, 44th Legislature, as heretofore amended, is amended hereby by repealing Section 5 thereof and enacting the following in lieu thereof:

"Section 5. Every person, agent, receiver, trustee, firm, corporation, association or copartnership opening, establishing, operating or maintaining one or more stores, mercantile establishments, or places of business of any kind or character rendering specialized service of any kind to the public, including reproductions of any kind of public records or the furnishing of title certificates or what is known as title insurance policies, within this State, under the same general management or ownership, shall pay the license fees hereinafter prescribed for the privilege of opening, operating or maintaining such establishments. Any person, agent, receiver, trustee, firm, corporation, as-

sociation or copartnership shall be deemed to come within the meaning of the terms of this act if such person, agent, receiver, trustee, firm, corporation, association or copartnership shall be entitled to receive any monies or other things of value, the amount of which is directly or indirectly based upon the amount of products sold or business done by such establishments. The license fees hereinafter prescribed shall be paid annually and shall be in addition to the filing fee prescribed in Sections 2 and 4 of this Act. Provided that the terms of this Act shall not apply to any licensed profession; or any business whose charges to the public are controlled by any board, or commission of this State or by the municipality or municipalities in which it is conducted; or any place or places of business used by bona fide processors of dairy products for the exclusive sale at retail of such products.

The license fees herein prescribed shall be as follows:

1. Upon one (1) establishment hereinafter described the license fee shall be One Dollar (\$1);
2. Upon each additional establishment in excess of one (1) but not to exceed two (2), the license fee shall be Six Dollars (\$6);
3. Upon each additional establishment in excess of two (2) but not to exceed five (5), the license fee shall be Twenty-five Dollars (\$25);
4. Upon each additional establishment in excess of five (5) but not to exceed ten (10) the license fee shall be One Hundred Dollars (\$100);
5. Upon each additional establishment in excess of ten (10) but not to exceed twenty (20), the license fee shall be Two Hundred and Fifty Dollars (\$250);
6. Upon each additional establishment in excess of twenty (20) but not to exceed thirty-five (35), the license fee shall be Five Hundred Dollars (\$500);
7. Upon each additional establishment in excess of thirty-five (35) but not to exceed fifty (50), the license fee shall be Seven Hundred and Fifty Dollars (\$750);
8. Upon each additional establishment in excess of fifty (50) the license fee shall be One Thousand Dollars (\$1,000);

Such fees are for the period of twelve (12) months, and upon the issuance of any license after the first

day of January of any one year, there shall be collected such fractional part of the license hereinabove fixed as the remaining months in the calendar year (including the month in which such license is issued) bears to the twelve-month period."

#### Section Two

Chapter 400, Acts of the First Called Session, 44th Legislature, as heretofore amended, is amended hereby by the addition thereto of a new section immediately following Section 5a thereof to be known as "Section 5 $\frac{1}{2}$ ", and reading as follows:

"Section 5 $\frac{1}{2}$ . In addition to all other taxes, fees and license fees, an additional license fee is levied hereby for the years 1950 and 1951 on every person, agent, receiver, trustee, firm, corporation, association, or copartnership upon which a license fee is levied by Sections 5 or 5a of Chapter 400, Acts, First Called Session, 44th Legislature, as amended.

"The payment of such additional license fee is subject to the same terms, conditions, obligations and penalties as is provided for the payment and collection of license fees levied in the aforesaid Sections 5 and/or 5a of Chapter 400, Acts, First Called Session, 44th Legislature, as amended.

"For the year 1950, the amount of such additional license fee shall be three-fourths ( $\frac{3}{4}$ ) of ten per cent (10%) of the amount of the license fee levied for the year 1950 by the aforesaid Sections 5 and/or 5a of Chapter 400, Acts, First Called Session, 44th Legislature, as amended. Such additional license fee for 1950 shall be paid before a renewal license is issued for the year 1951.

"The additional license fees for 1951 shall be two-thirds ( $\frac{2}{3}$ ) of ten percent (10%) of the amount of the license fees levied for the year 1951 by the aforesaid Sections 5 and/or 5a of Chapter 400, Acts, First Called Session, 44th Legislature, as amended. The additional license fee shall be due and payable and shall be paid at the same time as the payment of the license fees for the year 1951, levied by the aforesaid Sections 5 and/or 5a of Chapter 400, Acts, First Called Session, 44th Legislature, as amended.

"No license shall be issued for 1951 until the additional license fees levied herein have been paid."

(Senator Hardeman in the Chair.)



Senator Aikin moved to table the amendment.

The motion to table prevailed by the following vote:

Yeas—22

Aikin	Lane
Ashley	Lock
Bracewell	Moffett
Carney	Morris
Colson	Phillips
Cousins	Proffer
Hardeman	Shofner
Harris	Strauss
Jones	Tynan
Kelley of Hidalgo	Vick
Kelly of Tarrant	Weinert

Nays—8

Bullock	Martin
Corbin	McDonald
Hazlewood	Moore
Hudson	Nokes

Absent—Excused

Bell

Senator McDonald offered the following amendment to the bill:

Amend H. B. No. 3, by adding the following:

In addition to all other taxes herein levied, there shall be an additional tax as follows:

1. 1c per thousand cubic feet of natural gas produced in Texas.
2. One cent (1c) per hundred pounds of sulphur produced in Texas.
3. One cent (1c) per hundred pounds on carbon black manufactured in Texas.

Senator Aikin moved to table the amendment.

Senator Morris asked unanimous consent to consider the amendment by sections.

The presiding officer announced that there was objection.

Senator Phillips raised a point of order against the amendment on the ground that it is improperly drawn and that it does not state the portion of the bill it seeks to amend.

The presiding officer sustained the point of order.

Senator Hazlewood offered the following amendment to the bill:

Article XI of H. B. No. 3, is

amended so as to hereafter read as follows:

ARTICLE XI

Section One

(a) In addition to all other taxes, there is hereby levied an occupation tax on every person, agent, receiver, trustee, firm, association, or copartnership manufacturing or producing carbon black in this State, irrespective of the raw materials used or methods employed, such tax to be as follows:

1. On "Class A" carbon black said tax to be ten per cent (10%) of one hundred twenty-two twelve hundredths ( $122/1200$ ) of One Cent (1c) per pound on all such carbon black produced or manufactured where the market value is Four Cents (4c) per pound or less, and shall be ten per cent (10%) of four and one tenth per cent (4.1%) of the value of all such carbon black produced or manufactured where the market value is in excess of Four Cents (4c) per pound.

2. On "Class B" carbon black said tax to be ten per cent (10%) of thirty-one two hundred fortieths ( $31/240$ ) of One Cent (1c) per pound on all such carbon black produced or manufactured where the market value is Four Cents (4c) per pound or less, and shall be ten per cent (10%) of five and two tenths per cent (5.2%) of the value of all such carbon black produced or manufactured where the market value is in excess of Four Cents (4c) per pound.

"Class A" carbon black as used in this Article means carbon black manufactured or produced by the use of no gas or less than two hundred (200) cubic feet of gas per pound of carbon black.

"Class B" carbon black as used in this Article means carbon black manufactured or produced by the use of more than two hundred (200) cubic feet of gas per pound of carbon black.

Should one (1) or more of the classifications herein be declared for any reason to be discriminatory or unconstitutional or for any reason invalid, then in addition to all other taxes, there is hereby levied on all carbon black manufactured or produced in this State a tax of ten per cent (10%) of one hundred twenty-two twelve hundredths ( $122/1200$ ) of One Cent (1c) per pound on all carbon black produced or manufactured where the market value is Four Cents (4c)

per pound or less, and a tax of ten per cent (10%) of four and one tenth per cent (4.1%) of the value of all carbon black produced or manufactured where the market value is in excess of Four Cents (4c) per pound.

The market value of a particular type or grade of carbon black shall be the average sales price of that type or grade of all bona fide sales made during the month on which the tax is being paid less the cost of packing, freight, and cartage. If no carbon black of the particular type or grade has been sold during the month for which the tax is being paid then the actual market value of the same shall be the average sales price of that type or grade of all bona fide sales during the last preceding month in which a bona fide sale of that particular type or grade of carbon black was made, less packing, freight, and cartage.

(b) The tax herein imposed shall be due and payable at the office of the Comptroller at Austin on the 25th day of each succeeding month. On or before such date each person, agent, receiver, trustee, firm, corporation, association, or copartnership manufacturing or producing carbon black in this State shall file with the Comptroller of Public Accounts a report on a form prescribed by the Comptroller which report shall show the amount of carbon black manufactured or produced during the preceding month by said person, agent, receiver, trustee, firm, corporation, association, or copartnership. Such information shall be segregated according to grades and types of carbon black and the report shall show how much of each grade or type manufactured or produced by the person, agent, receiver, trustee, firm, corporation, association, or copartnership was actually manufactured or produced during the month on which the tax is being paid. The tax shall be computed on each grade or type reported separately by taking the rate of tax as imposed by Section (a) hereof after determining the actual market value as that term is defined therein of said grade or type and multiplying such rate against the amount of the particular type or grade of carbon black actually manufactured or produced during the month on which the tax is being paid. The tax is to be paid on all carbon black manufactured or produced during the month whether the same has been

sold or not. The reports provided for herein shall contain such other information as the Comptroller of Public Accounts shall require.

(c) A complete record of the business done, together with any other information the Comptroller may require, shall be kept by such distributor; which said record shall be open to the Comptroller, Attorney General, Auditor and their representatives; the Comptroller shall adopt rules and regulations for the enforcement hereof.

(d) In the event any person engaged in the business of producing or manufacturing carbon black in this State shall become delinquent in the payment of taxes herein imposed, the Attorney General may enjoin such person from producing or manufacturing carbon black until the delinquent tax is paid, and the venue of any such suit for injunction is hereby fixed in Travis County.

(e) If any person shall violate any of the provisions hereof, he shall forfeit to the State of Texas as a penalty not less than Twenty-five Dollars (\$25) nor more than One Thousand Dollars (\$1,000) for each violation, and each day's violation shall constitute a separate offense. If any person shall fail to pay said tax promptly, he shall forfeit two per cent (2%) thereof as penalty, and after the first twenty (20) days he shall forfeit an additional eight per cent (8%). Delinquent taxes shall draw interest at the rate of eight per cent (8%) from due date. The State shall have a prior lien for all delinquent taxes, penalties, and interest, on all property used by the producer or manufacturer in his business of manufacturing and producing carbon black.

(f) The tax imposed in this Section One of this Article XI is levied for the period beginning with the effective date of this Section and extending through and including August 31, 1961.

#### Section Two

Section One of this Article shall become effective on the first day of the first month after the effective date of this Act.

#### Section Three

Section 1 of Article XI of House Bill No. 8, Chapter 184, Acts Forty-seventh Legislature, as amended by House Bill No. 938, Acts Fifty-first

Legislature, Chapter 624, codified as Subdivision 46 of Article 7047, Vernon's Annotated Civil Statutes of Texas, is hereby amended, so as to hereafter read as follows:

"Section 1. (a) There is hereby levied an occupation tax on every person, agent, receiver, trustee, firm, association, or copartnership manufacturing or producing carbon black in this State, irrespective of the raw materials used or methods employed, such tax to be as follows:

"1. On 'Class A' carbon black said tax to be one hundred twenty-two twelve hundredths ( $122/1200$ ) of one (1) cent per pound on all such carbon black produced or manufactured where the market value is four (4) cents per pound or less, and shall be four and one-tenth (4.1) per cent of the value of all such carbon black produced or manufactured where the market value is in excess of four (4) cents per pound.

"2. On 'Class B' carbon black said tax to be thirty-one two hundred-fortieths ( $31/240$ ) of one (1) cent per pound on all such carbon black produced or manufactured where the market value is four (4) cents per pound or less, and shall be five and two-tenths (5.2) per cent of the value of all such carbon black produced or manufactured where the market value is in excess of four (4) cents per pound.

"'Class A' carbon black as used in this Article means carbon black manufactured or produced by the use of no gas or less than two hundred (200) cubic feet of gas per pound of carbon black.

"'Class B' carbon black as used in this Article means carbon black manufactured or produced by the use of more than two hundred (200) cubic feet of gas per pound of carbon black.

"Should one (1) or more of the classifications herein be declared for any reason to be discriminatory or unconstitutional or for any reason invalid, then there is hereby levied on all carbon black manufactured or produced in this State a tax of one hundred twenty-two twelve-hundredths ( $122/1200$ ) of one (1) cent per pound on all carbon black produced or manufactured where the market value is four (4) cents per pound or less, and a tax of four and one-tenth (4.1) per cent of the value of all carbon black produced or manufactured where the market value is in excess of four (4) cents per pound.

"The market value of a particular type or grade of carbon black shall be the average sales price of that type or grade of all bona fide sales made during the month on which the tax is being paid less the cost of packing, freight, and cartage. If no carbon black of the particular type or grade has been sold during the month for which the tax is being paid then the actual market value of the same shall be the average sales price of that type or grade of all bona fide sales during the last preceding month in which a bona fide sale of that particular type or grade of carbon black was made, less packing, freight, and cartage.

"(b) The tax herein imposed shall be due and payable at the office of the Comptroller at Austin on the 25th day of each succeeding month. On or before such date each person, agent, receiver, trustee, firm, corporation, association or copartnership manufacturing or producing carbon black in this State shall file with the Comptroller of Public Accounts a report on a form prescribed by the Comptroller which report shall show the amount of carbon black manufactured or produced during the preceding month by said person, agent, receiver, trustee, firm, corporation, association or copartnership. Such information shall be segregated according to grades and types of carbon black and the report shall show how much of each grade or type manufactured or produced by the person, agent, receiver, trustee, firm, corporation, association, or copartnership was actually manufactured or produced during the month on which the tax is being paid. The tax shall be computed on each grade or type reported separately by taking the rate of tax as imposed by Section (a) hereof after determining the actual market value as that term is defined therein of said grade or type and multiplying such rate against the amount of the particular type or grade of carbon black actually manufactured or produced during the month on which the tax is being paid. The tax is to be paid on all carbon black manufactured or produced during the month whether the same has been sold or not. The reports provided for herein shall contain such other information as the Comptroller of Public Accounts shall require.

"(c) A complete record of the business done, together with any other information the Comptroller may re-

quire, shall be kept by such distributor; which said record shall be open to the Comptroller, Attorney General, Auditor and their representatives; the Comptroller shall adopt rules and regulations for the enforcement hereof.

"(d) In the event any person engaged in the business of producing or manufacturing carbon black in this State shall become delinquent in the payment of taxes herein imposed, the Attorney General may enjoin such person from producing or manufacturing carbon black until the delinquent tax is paid, and the venue of any such suit for injunction is hereby fixed in Travis County.

"(e) If any person shall violate any of the provisions hereof, he shall forfeit to the State of Texas as a penalty not less than Twenty-five Dollars (\$25) nor more than One Thousand Dollars (\$1,000) for each violation, and each day's violation shall constitute a separate offense. If any person shall fail to pay said tax promptly, he shall forfeit two (2) per cent thereof as penalty, and after the first twenty (20) days he shall forfeit an additional eight (8) per cent. Delinquent taxes shall draw interest at the rate of eight (8) per cent from due date. The State shall have a prior lien for all delinquent taxes, penalties, and interest, on all property used by the producer or manufacturer in his business of manufacturing and producing carbon black."

#### Section Four

All revenue and funds derived under and by virtue of the provisions of Section Three of this Article by the levying of taxes on the manufacturing or producing of carbon black not heretofore taxed, save and except any portion required by Section 3, Article VII of the Constitution of the State of Texas to be set apart for the benefit of the public free schools, shall be paid into the State Hospital Fund, which is hereinafter created in this Act. The revenue and funds derived under and by virtue of Section Three of this Article by the levying of taxes on the manufacturing and producing of carbon black heretofore taxed under Section 1 of Article XI of House Bill No. 8, Chapter 184, Acts Forty-seventh Legislature, as amended by House Bill No. 938, Acts Fifty-first Legislature, Chapter 624, shall continue to be allocated as provided in said House Bill No. 8, Forty-seventh

Legislature. Provided however, that after August 31, 1951, all revenue and funds derived under and by virtue of this Article XI shall be allocated as provided in said House Bill No. 8, Forty-seventh Legislature.

#### Section Five

Section Three of this Article shall become effective on the first day of the first month after the effective date of this Act.

#### Section Six

Notwithstanding any other provision of this Act, it is not the intention of the Legislature that this Article shall expire on August 31, 1951, but it is the intention of the Legislature that it shall be a permanent amendment to Article XI of House Bill No. 8, Chapter 184, Acts of the Forty-seventh Legislature, as amended.

Senator Aikin moved to table the amendment.

The motion to table prevailed by the following vote:

#### Yeas—15

Aikin	Lock
Ashley	Morris
Carney	Phillips
Colson	Shofner
Cousins	Strauss
Jones	Tynan
Kelly of Tarrant	Weinert
Lane	

#### Nays—14

Bracewell	Kelley of Hidalgo
Bullock	Martin
Corbin	McDonald
Hardeman	Moffett
Harris	Nokes
Hazlewood	Proffer
Hudson	Vick

#### Absent

Moore

#### Absent—Excused

Bell

Senator McDonald offered the following amendment to the bill:

Amend H. B. No. 3, Article II, Section 1 $\frac{1}{2}$ , Page 4, by adding a new paragraph after paragraph (1), to be paragraph (1) a, which shall read as follows:

"In addition to all other taxes herein levied there is hereby levied an occupational tax of 1c per thousand

feet on natural gas produced in Texas."

On motion of Senator Aikin the amendment was tabled.

### Record of Vote

Senators Vick and McDonald asked to be recorded as voting "nay" on the motion to table the amendment.

Senator Hudson offered the following amendment to the bill:

Amend H. B. No. 3, by adding thereto another Article immediately following Article 11 to be known as Article 11A and to read as follows:

"Article 11A. From and after the effective date of this Act there shall be imposed upon every person engaged within this State in the business of the refining or extraction of chemicals, or in the manufacture of any plastic commodities a tax equal to the value of the product, including by-products, extracted for sale or for commercial or industrial use multiplied by the rate of one-fourth ( $\frac{1}{4}$ ) of one per cent (1%). The proceeds thereof to go to the State Hospital Fund.

On motion of Senator Aikin, the amendment was tabled.

Senator Nokes offered the following amendment to the bill:

Amend H. B. 3, by striking out wherever they appear the words and figures Ten (10%) per cent and inserting therefore the words and figures Fifteen (15%) per cent, and change such other words and figures to conform to the above changes.

Senator Aikin moved to table the amendment.

Yeas and nays were demanded.

The motion to table prevailed by the following vote:

### Yeas—21

Aikin	Kelly of Tarrant
Ashley	Lane
Bracewell	Lock
Carney	Martin
Colson	Moffett
Cousins	Phillips
Hardeman	Shofner
Harris	Strauss
Hazlewood	Tynan
Jones	Weinert
Kelley of Hidalgo	

### Nays—9

Bullock	Morris
Corbin	Nokes
Hudson	Proffer
McDonald	Vick
Moore	

### Absent—Excused

Bell

(President pro tempore in the Chair.)

Senator Bracewell offered the following amendment to the bill:

Amend H. B. No. 3, Article XIX, as amended by inserting between the words "State Hospitals" and the word "and" on page 46, line 19, of the mimeographed copy of said bill the words "including the M. D. Anderson Hospital for Cancer Research."

Senator Aikin raised a point of order against the amendment on the ground that it relates to a subject not included in the proclamation of the Governor convening the present special session of the Legislature.

The President pro tempore sustained the point of order.

Senator Bullock offered the following amendment to the bill:

Amend H. B. No. 3, by striking out the words and figures 10% wherever they appear and inserting in lieu thereof the words and figures 14%.

Senator Aikin moved to table the amendment.

The motion to table prevailed by the following vote:

### Yeas—19

Aikin	Kelly of Tarrant
Ashley	Lane
Bracewell	Lock
Carney	Moffett
Colson	Phillips
Cousins	Shofner
Hardeman	Strauss
Hazlewood	Tynan
Jones	Weinert
Kelley of Hidalgo	

### Nays—11

Bullock	Moore
Corbin	Morris
Harris	Nokes
Hudson	Proffer
Martin	Vick
McDonald	

## Absent—Excused

Bell

Senator Aikin offered the following amendment to the bill:

Amend the caption of H. B. No. 3, to conform to the body of the bill as amended.

The amendment was adopted.

H. B. No. 3, was passed to third reading by the following vote:

## Yeas—28

Aikin	Lock
Ashley	Martin
Bracewell	McDonald
Carney	Moffett
Colson	Moore
Corbin	Morris
Cousins	Nokes
Hardeman	Phillips
Harris	Proffer
Hazlewood	Shofner
Hudson	Strauss
Jones	Tynan
Kelley of Hidalgo	Vick
Lane	Weinert

## Nays—2

Bullock Kelly of Tarrant

## Absent—Excused

Bell

## House Bill 3 on Third Reading

Senator Aikin moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 3, be placed on its third and final passage.

The motion prevailed by the following vote:

## Yeas—28

Aikin	Lock
Ashley	Martin
Bracewell	McDonald
Carney	Moffett
Colson	Moore
Corbin	Morris
Cousins	Nokes
Hardeman	Phillips
Harris	Proffer
Hazlewood	Shofner
Hudson	Strauss
Jones	Tynan
Kelley of Hidalgo	Vick
Lane	Weinert

## Nays—2

Bullock Kelly of Tarrant

## Absent—Excused

Bell

The President pro tempore then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

## Yeas—28

Aikin	Lock
Ashley	Martin
Bracewell	McDonald
Carney	Moffett
Colson	Moore
Corbin	Morris
Cousins	Nokes
Hardeman	Phillips
Harris	Proffer
Hazlewood	Shofner
Hudson	Strauss
Jones	Tynan
Kelley of Hidalgo	Vick
Lane	Weinert

## Nays—2

Bullock Kelly of Tarrant

## Absent—Excused

Bell

## Motion to Recess

Senator Nokes moved that the Senate recess until 10:00 o'clock a.m. tomorrow.

The motion was lost.

## Motion to Adjourn

Senator Hudson moved that the Senate adjourn until 10:00 o'clock a.m. tomorrow.

Yeas and nays were demanded.

The motion was lost by the following vote:

## Yeas—12

Bullock	Martin
Carney	McDonald
Corbin	Moore
Cousins	Morris
Harris	Nokes
Hudson	Proffer

## Nays—18

Aikin	Jones
Ashley	Kelley of Hidalgo
Bracewell	Kelly of Tarrant
Colson	Lane
Hardeman	Lock
Hazlewood	Moffett

Phillips	Tynan
Shofner	Vick
Strauss	Weinert

Absent—Excused

Bell

**Motion to Place House Bill 2 on Second Reading**

Senator Aikin moved that the constitutional rule requiring bills to be read on three several days be suspended and that H. B. No. 3 be placed on its second reading and passage to third reading.

The motion was lost by the following vote (not receiving the necessary four-fifths vote of the members present):

Yeas—20

Aikin	Lane
Ashley	Lock
Bracewell	Moffett
Carney	Morris
Colson	Phillips
Cousins	Shofner
Hardeman	Strauss
Hazlewood	Tynan
Jones	Vick
Kelley of Hidalgo	Weinert

Nays—10

Bullock	Martin
Corbin	McDonald
Harris	Moore
Hudson	Nokes
Kelly of Tarrant	Proffer

Absent—Excused

Bell

**Senate Resolution 39**

Senator Vick offered the following resolution:

Whereas, The Honorable A. F. Moursund, District Engineer at San Angelo, Texas, plans to retire from active service with the Texas Highway Department as of March 31, 1950; and

Whereas, Mr. Moursund, affectionately known as "Cap" throughout our State, was born in Blanco City, Texas, in 1875 and moved with his family in 1883 to Fredericksburg, Texas; and

Whereas, "Cap" was educated in the Fredericksburg schools and entered Texas Agricultural and Mechanical College in 1892 and graduated with a Bachelor of Science Degree in Civil Engineering in 1895; and

Whereas, Upon graduation from Texas Agricultural and Mechanical College "Cap" embarked into a colorful career with the railroad companies. He played an important part in the construction of railroads which were being pushed through Louisiana, Texas, and Arizona; and

Whereas, In 1919 "Cap" left railroading and began his long and outstanding highway career, his first job being that of County Engineer of Gillespie County; and

Whereas, In 1923 he was made District Engineer for the Texas Highway Department, in charge of the San Angelo District and has served in this capacity since that time with the exception of a two-year period from March 1, 1925, to March 1, 1927, during which time he engaged in private practice in Fredericksburg, Texas, doing land surveying; and

Whereas, The Highway Commission has presented Mr. Moursund with a Twenty-five Year Certificate of Service and Gold Emblem in recognition and appreciation of his many years of meritorious service with the Department. Upon retirement Mr. Moursund will have served almost twenty-nine years with the Texas Highway Department; now, therefore, be it

Resolved, That the Senate of the State of Texas recognize Mr. Moursund as one of the outstanding citizens of the State of Texas, a credit to himself and an honor to the State, and that a copy of this resolution be sent Mr. Moursund; and, be it further

Resolved, That when the Senate adjourns today, it do so in honor of this faithful servant of Texas.

VICK  
HARDEMAN

Signed—Grady Hazlewood, President pro tempore, Aikin, Ashley, Bell, Bracewell, Bullock, Carney, Colson, Corbin, Cousins, Harris, Hudson, Jones, Kelley of Hidalgo, Kelly of Tarrant, Lane, Lock, Martin, McDonald, Moffett, Moore, Morris, Nokes, Phillips, Proffer, Shofner, Strauss, Tynan, Weinert.

The resolution was read.

On motion of Senator Harris, the names of the President pro tempore and of all the Senators were added to the resolution as signers hereof.

The resolution was adopted.

**Adjournment**

Senator Aikin moved that the Sen-

ate adjourn until 4:46 o'clock p.m. today.

Senator Bullock moved that the Senate adjourn until 10:00 o'clock a.m. tomorrow.

Question first recurring in the motion of Senator Bullock, yeas and nays were demanded.

The motion was lost by the following vote:

## Yeas—14

Bracewell	Hudson
Bullock	Kelly of Tarrant
Carney	Martin
Corbin	McDonald
Cousins	Moore
Harris	Morris
Hazlewood	Nokes

## Nays—16

Aikin	Moffett
Ashley	Phillips
Colson	Proffer
Hardeman	Shofner
Jones	Strauss
Kelley of Hidalgo	Tynan
Lane	Vick
Lock	Weinert

## Absent—Excused

Bell

At 4:47 o'clock p.m., Senator Aikin moved that the Senate adjourn to 4:50 o'clock p.m. today.

Senator Hudson moved that the Senate adjourn until 11:00 o'clock a.m. tomorrow.

Question first recurring on the motion of Senator Hudson, yeas and nays were demanded.

The motion was lost by the following vote:

## Yeas—9

Bracewell	Cousins
Bullock	Hudson
Corbin	Martin

McDonald  
Moore

Nokes

## Nays—21

Aikin	Lock
Ashley	Moffett
Carney	Morris
Colson	Phillips
Hardeman	Proffer
Harris	Shofner
Hazlewood	Strauss
Jones	Tynan
Kelley of Hidalgo	Vick
Kelly of Tarrant	Weinert
Lane	

## Absent—Excused

Bell

Question then recurring on the motion of Senator Aikin, yeas and nays were demanded.

The motion prevailed by the following vote:

## Yeas—23

Aikin	Lock
Ashley	Martin
Bracewell	Moffett
Carney	Morris
Colson	Phillips
Cousins	Proffer
Hardeman	Shofner
Hazlewood	Strauss
Jones	Tynan
Kelley of Hidalgo	Vick
Kelly of Tarrant	Weinert
Lane	

## Nays—7

Bullock	McDonald
Corbin	Moore
Harris	Nokes
Hudson	

## Absent—Excused

Bell

The Senate accordingly at 4:49 o'clock p.m. adjourned to 4:50 o'clock p.m. today.



## In Memory of Judge Irby Dunklin

(Senate Concurrent Resolution 11)

Senator Kelly of Tarrant offered the following resolution:

S. C. R. No. 11, In memory of Judge Irby Dunklin.

WHEREAS, on Wednesday, the 16th day of November, 1949, our Almighty God called from his earthly existence, Irby Dunklin, of Fort Worth, former Judge of the 48th District Court of Tarrant County, and former Associate Justice of the Court of Civil Appeals for the Second Supreme Judicial District of Texas, and later Chief Justice of that court; and,

WHEREAS, Judge Dunklin, son of William A. Turner Dunklin and his wife, Mary Cook, was born in Greenville, Alabama on September 11, 1857. He moved to Cass County, Texas, and lived there during the Reconstruction days. In 1877 he enrolled at Emory College, now Emory University at Atlanta, Georgia, studying there for two years. He was always a loyal ex-student of that school and took an interest in its affairs. In October 1878, he enrolled at the University of Georgia at Athens, Georgia, and graduated with an A.B. degree in 1880. After graduation, he came to Fort Worth and further studied law and was admitted to the bar there in August, 1882. He practiced law until December 12, 1896; then being elected Judge of the 48th District Court of Tarrant County, qualifying on that date and continuing to serve as Judge of that court until December, 1909. He was elected Associate Justice of the Court of Civil Appeals for the Second Supreme Judicial District of Texas in 1909 and qualified as such; then on November 4, 1933, he was appointed Chief Justice of that court and served in that capacity until his retirement in December, 1940. From that time until the date of his death, he was in the private practice of law in Fort Worth; and,

WHEREAS, He was first married to Lillie Arnold, the daughter of W. J. Arnold and wife, Edna Ann Beall; and after the death of Lillie Arnold Dunklin in July, 1930, he married Mrs. Ada Waller in May, 1933, who died on September 26, 1942. There were no children by either union; however, Judge Dunklin is survived by one niece, Mrs. Mabel Horsley Grammer, who lived in his home at the time of his death, and by six nephews; and,

WHEREAS, In his forty-four years as Judge, he served the public well. His opinions, while he was on the Court of Civil Appeals, are contained among 326 Volumes of our Southwestern Reporter, beginning with Volume 119 of the First Series and ending with Volume 145 of the Second Series. He believed law was not framed to uphold injustice or fraud and in his opinions he endeavored to always right a wrong if he felt it had been done. He was a strong believer in the Constitution and followed it as nearly as humanly possible; and,

WHEREAS, Judge Dunklin lived a long and useful life; being a member of Chi Phi Fraternity, the First Congregational Church and was a Mason and active in its works for many years; he was of a happy disposition, always looking on the bright side of life and was a great help to young lawyers, all of whom have profited by his advice and counsel; he was courtly in manner, gentle in speech, moral in character, commanding in appearance and a true Southern gentleman of the old school; and,

WHEREAS, In the death of Judge Irby Dunklin, the State of Texas has lost one of its most dearly beloved and useful citizens, whose wise counsel, calm and serene judgment, and the influence of a noble life will be missed by all who knew him; that although "Time laid her hand upon his heart, not smiting it, but as a harper lays his open palm upon his harp to silence its vibrations," so his memory will ever remain with us; now, therefore, be it

RESOLVED, By the Senate, the House of Representatives concurring, That we express our sorrow over the passing of this beloved citizen; that a page in the Journal be set aside to his memory; that a copy of this resolution be sent to each surviving member of his family; and that when the Senate and the House stand adjourned today, they do so in respect to the memory of Judge Irby Dunklin.

KELLY of Tarrant

Signed—Grady Hazlewood, President pro tempore, Aikin, Ashley, Bell, Bracewell, Bullock, Carney, Colson, Corbin, Cousins, Hardeman, Harris, Hudson, Jones, Kelley of Hidalgo, Lane, Lock, Martin, McDonald, Moffett, Moore, Morris, Nokes, Phillips, Proffer, Shofner, Strauss, Tynan, Vick, Weinert.

The resolution was read.

On motion of Senator Hardeman, the names of the President pro tempore and of all the Senators were added to the resolution as signers thereof.

The resolution was adopted.

**In Memory of**  
**Mr. Arley Caldwell Stuart**  
**and Mrs. Mary Lou Beard Stuart**

(Senate Resolution 40)

Senator Carney offered the following resolution:

Whereas, The State of Texas lost one of its most distinguished and beloved citizens when the illustrious career of Mr. Arley Caldwell Stuart of Texarkana, Texas, was closed by his sudden death on July 31, 1949; and

WHEREAS, On Monday, February 6, 1950, our Almighty God called from her earthly existence Mrs. Mary Lou Beard Stuart, beloved wife of Mr. Arley Caldwell Stuart; and

WHEREAS, We realize that we must yield to the inscrutable ways of Providence and bow to the will of Him who doeth all things well; and

WHEREAS, Mr. Stuart's passing, at the age of 77, ended a full and outstanding life of service as a leader in his church, his community and the State; he was continuously active in civic work in the City of Texarkana; his service in that respect is marked by the fact that he worked just as hard in the ranks as he did on committees; his memberships in civic organizations were many; he was alderman for the City of Texarkana for two years and mayor of that City for six years; and

WHEREAS, As a leader in the business world, he was truly one who attained success in his chosen field through his belief in hard work, conscientious efforts and friendly business methods; he was in the telephone industry for 43 years and was president of The Two States Telephone Company at the time of his death; his sincere interest in all those with whom he was associated was one of his most notable characteristics; and

WHEREAS, Mrs. Stuart was born at Jefferson, Texas, and lived most of her life in Texarkana, Texas; she was a member of the Texarkana Memorial Unit, the Texarkana Pioneers Association and the Sacred Heart Catholic Church; and

WHEREAS, Mrs. Stuart was a devoted wife and mother and was friendly and generous in her consideration for others; and

WHEREAS, Mr. and Mrs. Stuart are survived by a son, James E. Stuart of Texarkana, Texas; a daughter, Mrs. George B. Butler of Austin, Texas; one granddaughter, Mrs. Claude Phillips of Texarkana, Texas; a great-grandson, Stuart Phillips of Texarkana, Texas; and

WHEREAS, These two good and noble people filled all the years allotted to them with devoted service to their family, their friends, their community and to their State, being at all times ready and willing to give of their time and their means to help their fellow man; now, therefore, be it

**RESOLVED**, By the Senate of the State of Texas, that we extend our sincere and heartfelt sympathy to their family; that we acknowledge their passing by directing that a copy of this resolution be spread upon the pages of the Journal as an expression of our respect; that enrolled copies of this resolution be sent to the members of their family; and that when the Senate adjourns today, it do so in solemn tribute to Mr. and Mrs. Stuart, whose lives and works will live long in the memory of this State and in the memory of their multitude of friends.

**CARNEY**

Signed—Grady Hazlewood, President pro tempore, Aikin, Bell, Bracewell, Bullock, Colson, Corbin, Cousins, Hardeman, Harris, Hudson, Jones, Kelley of Hidalgo, Kelly of Tarrant, Lane, Lock, Martin, McDonald, Moffett, Moore, Morris, Nokes, Phillips, Proffer, Shofner, Strauss, Tynan, Vick, Weinert.

The resolution was read.

On motion of Senator Morris, the names of the President pro tempore and of all of the Senators were added to the resolution as signers thereof.

The resolution was adopted.